have contemplated at the time of making the contract as a probable result of the breach. *Hadley* v. *Baxendale*, 9 Exch. 341; *Swift River Co.* v. *Fitchburg R. Co.*, 169 Mass. 326, 47 N. E. 1015. But if such notice be given, the carrier is liable for special damages. *Illinois Central R. Co.* v. *Byrne*, 205 Ill. 9, 68 N. E. 720; *Gledhill Wall Paper Co.* v. *Baltimore & Ohio R. Co.*, 119 N. Y. Supp. 623. This rule holds even though the carrier must charge the same rate. *Chicago, etc. Ry. Co.* v. *Planters' Gin and Oil Co.*, 88 Ark. 77, 113 S. W. 352. If the carrier is notified after the goods have arrived at their destination and delays delivery, he is liable for the loss suffered. *Bourland* v. *Choctaw, etc. Ry. Co.*, 99 Tex. 407, 90 S. W. 483. Since the carrier is forbidden by law to refuse the goods, impose special rates, or stipulate against liability, the only reason for requiring notice is that he may know of the emergency in time to exercise the higher degree of care which the situation demands; and for this purpose notice a reasonable time before the delay has occurred should be as effective as notice at the time of making the contract. But the authorities hold otherwise. *Missouri, etc. Ry. Co.* v. *Belcher*, 89 Tex. 428, 35 S. W. 6; *Bradley* v. *Chicago, etc. Ry. Co.*, 94 Wis. 44, 68 N. W. 410.

ELECTRIC WIRES — APPLICATION OF THE PRINCIPLE OF FLETCHER *v.* RYLANDS. — The plaintiff company maintained telegraph lines and electrical appliances on a private right of way and on the highway. The defendant company operated on its adjacent private right of way an electric railroad whose currents interfered with the plaintiff company's lines. The plaintiff sought to enjoin the operation of the railroad unless devices to prevent the interference were installed. *Held*, that an injunction will not be granted. *Postal Tel. & Cable Co.* v. *Chicago, L. S. & S. B. Ry. Co.*, 97 N. E. 20 (Ind.).

For a discussion of the principles involved, see 24 HARV. L. REV. 322.

EMINENT DOMAIN — NATURE OF THE RIGHT OF EMINENT DOMAIN — REMOVAL OF DAM FOR PUBLIC HEALTH. — A statute declared that where a mill had become useless and so remained without repair for five years, the privilege should cease, as against the public health, convenience, and welfare, and that commissioners, wherever they deemed it conducive to those objects, might, without compensation, cause the dam to be removed, and the watercourse cleaned out and improved. *Held*, that the statute is unconstitutional. *Kiser* v. *Board of Commissioners of Logan County*, 97 N. E. 52 (Oh.). See NOTES, p. 551.

EMINENT DOMAIN — WHAT PROPERTY MAY BE TAKEN — PROPERTY ALREADY DEVOTED TO PUBLIC USE. — A city, under a general power, attempted to condemn land already appropriated to the use of a public library, in order to widen a street. It did not appear what part of the library's land the city desired to expropriate. *Held*, that the property cannot be taken under a general power. *City of Moline* v. *Greene*, 96 N. E. 911 (Ill.).

Property may generally be taken by eminent domain from one public use and subjected to another. *City of Boston* v. *Inhabitants of Brookline*, 156 Mass. 172, 30 N. E. 611; *Matter of Petition of New York, etc. Ry. Co.*, 99 N. Y. 12, 1 N. E. 27. But such change of ownership is not allowed where there is no change in the use or its manner of exercise. *Suburban R. Co.* v. *Metropolitan West Side Elevated R. Co.*, 193 Ill. 217, 61 N. E. 1090. Nor is it permissible where the prior use would be thereby materially impaired or destroyed, unless such legislative intent appears expressly or by necessary implication. *Evergreen Cemetery Association* v. *City of New Haven*, 43 Conn. 234. Conversely, property not essential or already in actual use may be recondemned under a general power. *Railroad Co.* v. *Village of Belle Centre*, 48 Oh. St. 273, 27 N. E. 464. Some courts have gone to a considerable length in allowing such expropriation. *Butte, etc. Ry. Co.* v. *Montana Union Ry. Co.*, 16 Mont. 504, 41 Pac. 232;

Wheeling Bridge Co. v. *Wheeling & Belmont Bridge Co.*, 34 W. Va. 155, 11 S. E. 1009. Thus one court has allowed a railroad station platform to be taken for a street under a general power. *State, New York & Long Branch R. Co.* v. *Drummond*, 46 N. J. L. 644. While another has reached the same result with respect to a school lot, although the use was somewhat impaired. *Inhabitants of Easthampton* v. *County Commissioners of Hampshire*, 154 Mass. 424, 28 N. E. 298. In view of such decisions it would seem that a contrary conclusion might well have resulted from a further consideration of the facts in the principal case.

ESTOPPEL — ESTOPPEL IN PAIS — WHETHER SOVEREIGN MAY BE ESTOPPED. — By an avulsion the state acquired whatever right it had to the land in controversy. The plaintiff subsequently held for over twenty years. During this time the state acquiesced in the plaintiff's possession as owner, and the plaintiff made costly improvements and paid the taxes levied by the state. The state thereafter made its first claim to the land. *Held*, that the state is estopped from asserting its claim. *State of Iowa* v. *Carr*, 191 Fed. 257 (C. C. A., Eighth Circ.).

For a discussion of the principles involved, see 19 HARV. L. REV. 126.

EVIDENCE — HEARSAY — PROOF OF RACE OF WITNESS'S PARENTS. — The defendant was indicted under a statute for selling liquor to A., a half-breed Indian. A. was allowed to testify that his father was a Portuguese and his mother a full-blooded Indian. *Held*, that this is not error. *State* v. *Rackich*, 119 Pac. 843 (Wash.).

It is well settled that a witness may testify to his own age. *Commonwealth* v. *Stevenson*, 142 Mass. 466, 8 N. E. 341; *People* v. *Ratz*, 115 Cal. 132, 46 Pac. 915. While often such testimony is hearsay, strictly speaking, the courts have held it admissible, probably because the information derived from family talks, birthdays, and other sources amounts practically to knowledge of the fact. *State* v. *Miller*, 71 Kan. 200, 80 Pac. 51; *Loose* v. *State*, 120 Wis. 115, 97 N. W. 526. See 6 HARV. L. REV. 449. Where it is based on personal observation of events and circumstances of daily life, it is not technically hearsay. *State* v. *Marshall*, 137 Mo. 463, 39 S. W. 63. For the same practical reasons a witness is permitted to testify to the age of members of his family. *Hancock* v. *Supreme Council Catholic Benevolent Legion*, 69 N. J. L. 308, 55 Atl. 246. *Contra, Rogers* v. *De Bardeleben Coal & Iron Co.*, 97 Ala. 154, 12 So. 81. It is submitted that the same considerations apply to testimony as to race. It seems a preferable rule to admit it subject to the discretion of the court in determining adequacy of knowledge and means of observation, rather than to exclude it generally on the ground of hearsay. If it is not admissible as a statement of the witness's own knowledge, it could probably be admitted, under proper conditions, as a statement of the family reputation. See 2 WIGMORE, EVIDENCE, §§ 1500, 1502. But *cf. Wright* v. *Commonwealth*, 72 S. W. 340. And some courts have allowed it to be shown by proof of general reputation in the neighborhood. *Vaughan* v. *Phebe*, Mart. & Y. (Tenn.) 4; *Gilliand* v. *Board of Education*, 141 N. C. 482, 54 S. E. 413. See 2 WIGMORE, EVIDENCE, § 1605.

FRAUDULENT CONVEYANCES — RIGHTS OF CREDITORS — CONVEYANCE OF PARTNERSHIP BUSINESS FRAUDULENT AS TO CREDITORS OF ONE PARTNER. — The business of a partnership composed of two members was by them conveyed to the defendant corporation with intent to defeat the creditors of one of the partners, who afterwards was adjudicated a bankrupt. The fraudulent nature of the conveyance was known to all the parties to it. *Held*, that the conveyance may be set aside by the trustee of the bankrupt partner. *Trustee of Gonville* v. *Patent Caramel Co.*, 105 L. T. 831 (Eng., K. B. D. in Bankruptcy, Nov. 14, 1911).